



General Assembly

Substitute Bill No. 5433

February Session, 2004

* _____ HB05433LM _____ 042004 _____ *

**AN ACT REVISING PREQUALIFICATION REQUIREMENTS FOR
STATE CONSTRUCTION CONTRACTS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 4b-91 of the general statutes, as amended by
2 section 1 of public act 03-215, is repealed and the following is
3 substituted in lieu thereof (*Effective October 1, 2004*):

4 (a) Every contract for the construction, reconstruction, alteration,
5 remodeling, repair or demolition of any public building for work by
6 the state, which is estimated to cost more than five hundred thousand
7 dollars, except (1) a contract awarded by the Commissioner of Public
8 Works for (A) a community court project, as defined in subsection (j) of
9 section 4b-55, (B) the Connecticut Juvenile Training School project, as
10 defined in subsection (k) of section 4b-55, (C) the downtown Hartford
11 higher education center project, as defined in subsection (l) of section
12 4b-55, (D) The University of Connecticut library project, as defined in
13 subsection (d) of section 4b-55, (E) a correctional facility project, as
14 defined in subsection (m) of section 4b-55, (F) a juvenile detention
15 center project, as defined in subsection (n) of section 4b-55, or (G) a
16 student residential facility for the Connecticut State University system
17 that is a priority higher education facility project, as defined in
18 subsection (f) of section 4b-55, or (2) a project, as defined in
19 subdivision (16) of section 10a-109c, undertaken and controlled by The

20 University of Connecticut in accordance with section 10a-109n, shall be
21 awarded to the lowest responsible and qualified general bidder who is
22 prequalified pursuant to section 3 of [this act] public act 03-215, as
23 amended by this act on the basis of competitive bids in accordance
24 with the procedures set forth in this chapter, [and section 8 of this act,]
25 after the Commissioner of Public Works or, in the case of a contract for
26 the construction of or work on a building under the supervision and
27 control of the Joint Committee on Legislative Management of the
28 General Assembly, the joint committee or, in the case of a contract for
29 the construction of or work on a building under the supervision and
30 control of one of the constituent units of the state system of higher
31 education, the constituent unit, has invited such bids by
32 advertisements inserted at least once in one or more newspapers
33 having a circulation in each county in the state. The Commissioner of
34 Public Works, the joint committee or the constituent unit, as the case
35 may be, shall indicate the prequalification classification and aggregate
36 work capacity rating required for the contract in such advertisement.
37 As used in this section, "prequalification classification" means the
38 prequalification classifications established by the Commissioner of
39 Administrative Services pursuant to section 3 of [this act] public act 03-
40 215, as amended by this act and "aggregate work capacity rating"
41 means the aggregate work capacity ratings established by the
42 Commissioner of Administrative Services pursuant to section 3 of [this
43 act] public act 03-215, as amended by this act.

44 (b) The Commissioner of Public Works, the joint committee or the
45 constituent unit, as the case may be, shall determine the manner of
46 submission and the conditions and requirements of such bids, and the
47 time within which the bids shall be submitted, consistent with the
48 provisions of sections 4b-91 to 4b-96, inclusive, as amended. Such
49 award shall be made within sixty days after the opening of such bids.
50 If the general bidder selected as the general contractor fails to perform
51 the general contractor's agreement to execute a contract in accordance
52 with the terms of the general contractor's general bid and furnish a
53 performance bond and also a labor and materials or payment bond to

54 the amount specified in the general bid form, an award shall be made
55 to the next lowest responsible and qualified general bidder. No
56 employee of the Department of Public Works, the joint committee or a
57 constituent unit with decision-making authority concerning the award
58 of a contract and no public official may communicate with any bidder
59 prior to the award of the contract if the communication results in the
60 bidder receiving information about the contract that is not available to
61 other bidders, except that if the lowest responsible and qualified
62 bidder's price submitted is in excess of funds available to make an
63 award, the Commissioner of Public Works, the Joint Committee on
64 Legislative Management or the constituent unit, as the case may be,
65 may negotiate with such bidder and award the contract on the basis of
66 the funds available, without change in the contract specifications,
67 plans and other requirements. If the award of a contract on said basis
68 is refused by such bidder, the Commissioner of Public Works, the Joint
69 Committee on Legislative Management or the constituent unit, as the
70 case may be, may negotiate with other contractors who submitted bids
71 in ascending order of bid prices without change in the contract,
72 specifications, plans and other requirements. In the event of
73 negotiation with general bidders as provided in this section, the
74 general bidder involved may negotiate with subcontractors on the
75 same basis, provided such general bidder shall negotiate only with
76 subcontractors named on such general bidder's general bid form.

77 (c) On and after October 1, 2004, no person may bid on a contract,
78 except for a project described in subdivision (2) of subsection (a) of this
79 section, for the construction, reconstruction, alteration, remodeling,
80 repair or demolition of any public building for work by the state or a
81 municipality, which is estimated to cost more than five hundred
82 thousand dollars and is paid for, in whole or in part, with state funds,
83 unless the person is prequalified in accordance with section 3 of [this
84 act] public act 03-215, as amended by this act.

85 (d) On and after October 1, 2004, each bid submitted for a contract
86 described in subsection (c) of this section shall include a copy of a
87 prequalification statement issued by the Commissioner of

88 Administrative Services showing that the bidder has the
89 prequalification classification and aggregate work capacity ratings
90 required under such contract. The bid shall also be accompanied by an
91 update statement in such form as the Commissioner of Administrative
92 Services prescribes. The form for such update statement shall provide
93 space for information regarding all projects completed by the bidder
94 since the date the bidder's prequalification certificate was issued or
95 renewed, all projects the bidder currently has under contract,
96 including the percentage of work on such projects not completed, the
97 names and qualifications of the personnel who will have supervisory
98 responsibility for the performance of the contract, any significant
99 changes in the bidder's financial position or [business organization]
100 corporate structure since the date the certificate was issued or
101 renewed, and such other relevant information as the Commissioner of
102 Administrative Services prescribes. Any bid submitted without a copy
103 of the prequalification certificate and an update statement shall be
104 invalid.

105 (e) Any person who bids on a contract described in subsection (c) of
106 this section shall certify under penalty of false statement at the
107 conclusion of the bidding process that the information in the bid is
108 true, that there has been no substantial change in the bidder's financial
109 position or corporate structure since the bidder's most recent
110 prequalification certificate was issued or renewed, other than those
111 changes noted in the update statement, and that the bid was made
112 without fraud or collusion with any person.

113 (f) Any person who receives information from a state employee or
114 public official that is not available to the general public concerning any
115 construction, reconstruction, alteration, remodeling, repair or
116 demolition project on a public building prior to the date that an
117 advertisement for bids on the project is published shall be disqualified
118 from bidding on the project.

119 (g) Notwithstanding the provisions of this chapter regarding
120 competitive bidding procedures, the commissioner may select and

121 interview at least three responsible and qualified general contractors
122 who are prequalified pursuant to section 3 of [this act] public act 03-
123 215, as amended by this act, and selected by the award panel
124 established in [subdivision (4) of section 4b-24] section 8 of public act
125 03-215, as amended by this act. The commissioner may negotiate with
126 any one of such contractors a contract which is both fair and
127 reasonable to the state for a community court project, as defined in
128 subsection (j) of section 4b-55, the downtown Hartford higher
129 education center project, as defined in subsection (l) of section 4b-55,
130 The University of Connecticut library project, as defined in subsection
131 (d) of section 4b-55, the Connecticut Juvenile Training School project,
132 as defined in subsection (k) of section 4b-55, a correctional facility
133 project, as defined in subsection (m) of section 4b-55, a juvenile
134 detention center project, as defined in subsection (n) of section 4b-55,
135 or a student residential facility for the Connecticut State University
136 system that is a priority higher education facility project, as defined in
137 subsection (f) of section 4b-55. Any general contractor awarded a
138 contract pursuant to this subsection shall be subject to the same
139 requirements concerning the furnishing of bonds as a contractor
140 awarded a contract pursuant to subsection (b) of this section.

141 (h) On and after October 1, 2004, any agency that seeks to have a
142 project awarded without being subject to competitive bidding
143 procedures shall certify to the joint committee of the General Assembly
144 having cognizance of matters relating to legislative management that
145 the project is of such an emergency nature that an exception to
146 competitive bidding procedures is required. Such certification shall
147 include input from all affected agencies, detail the need for the
148 exception and include any relevant documentation.

149 (i) In the event that a specific project is authorized by the General
150 Assembly to be awarded without competitive bidding, the
151 commissioner may select at least three responsible and qualified
152 general contractors who are prequalified pursuant to section 3 of
153 public act 03-215, as amended by this act, and submit the three selected
154 contractors to the construction services award panels process

155 described in section 8 of public act 03-215, as amended by this act, and
 156 any regulation adopted by the commissioner.

157 Sec. 2. Section 3 of public act 03-215 is repealed and the following is
 158 substituted in lieu thereof (*Effective October 1, 2004*):

159 (a) As used in this section: (1) "Prequalification" means
 160 prequalification issued by the Commissioner of Administrative
 161 Services to bid on a contract for the construction, reconstruction,
 162 alteration, remodeling, repair or demolition of any public building for
 163 work by the state or a municipality; (2) "subcontractor" means a person
 164 who performs work with a value in excess of twenty-five thousand
 165 dollars for a contractor pursuant to a contract for work for the state or
 166 a municipality which is estimated to cost more than five hundred
 167 thousand dollars; and (3) "principals and key personnel" includes
 168 officers, directors, shareholders, members, partners and managerial
 169 employees.

170 (b) (1) Any person may apply for prequalification to the Department
 171 of Administrative Services. Such application shall be made on such
 172 form as the Commissioner of Administrative Services prescribes and
 173 shall be accompanied by a nonrefundable application fee as set forth in
 174 subdivision (2) of this subsection. The application shall be signed
 175 under penalty of false statement.

176 (2) The application fee shall be as follows:

| | | |
|----|----------------------------------|----------|
| T1 | Aggregate Work Capacity Rating | Fee |
| T2 | \$5,000,000.00 or less | \$600.00 |
| T3 | \$5,000,000.01 - \$8,000,000.00 | \$750.00 |
| T4 | \$8,000,000.01 - \$10,000,000.00 | \$850.00 |

| | | |
|----|-----------------------------------|------------|
| T5 | \$10,000,000.01 - \$15,000,000.00 | \$1,000.00 |
| T6 | \$15,000,000.01 - \$20,000,000.00 | \$1,500.00 |
| T7 | \$20,000,000.01 - \$40,000,000.00 | \$2,000.00 |
| T8 | \$40,000,000.01 or more | \$2,500.00 |

177 (c) The application form shall, at a minimum, require the applicant
178 to supply information concerning:

179 (1) The applicant's form of organization;

180 (2) The applicant's principals and key personnel and any names
181 under which the applicant, principals or key personnel conducted
182 business during the past five years;

183 (3) The applicant's experience on public and private construction
184 projects over the past five years, or on the applicant's ten most
185 recently-completed projects and the names of any subcontractors used
186 on the projects;

187 (4) Any legal or administrative proceedings pending or concluded
188 adversely against the applicant or any of the applicant's principals or
189 key personnel within the past five years which relate to the
190 procurement or performance of any public or private construction
191 contract and whether the applicant is aware of any investigation
192 pending against the applicant or any principal or key personnel;

193 (5) The nature of any financial, personal or familial relationship
194 between the applicant and any public or private construction project
195 owner listed on the application as constituting construction experience;

196 (6) A statement of whether (A) the applicant has been disqualified
197 pursuant to section 4b-95, this section or section 31-57c or 31-57d, (B)
198 the applicant is on the list distributed by the Labor Commissioner
199 pursuant to section 31-57a, (C) the applicant is disqualified or

200 prohibited from being awarded a contract pursuant to section 31-57b,
201 (D) the applicant has been disqualified by another state, (E) the
202 applicant has been disqualified by a federal agency or pursuant to
203 federal law, (F) the applicant's registration has been suspended or
204 revoked by the Department of Agriculture and Consumer Protection
205 pursuant to section 20-341gg, as amended, (G) the applicant has been
206 disqualified by a municipality, and (H) the matters that gave rise to
207 any such disqualification, suspension or revocation have been
208 eliminated or remedied; and

209 (7) Other information as the commissioner deems relevant to the
210 determination of the applicant's qualifications and responsibilities.

211 (d) The applicant shall include a statement of financial condition
212 prepared by a certified public accountant which includes information
213 concerning the applicant's assets and liabilities, plant and equipment,
214 bank and credit references, bonding company and maximum bonding
215 capacity, and other information as the commissioner deems relevant to
216 an evaluation of the applicant's financial capacity and responsibility.

217 (e) The application shall include a sworn statement that the
218 principal and all employees with significant responsibility have read
219 the contractor's code of ethics contained in sections 5 to 7, inclusive, of
220 this act. Additionally, such application shall include a copy of any
221 affidavit required by the provisions of section 4 of house bill 5025 of
222 the current session.

223 [(e)] (f) Information contained in the application shall be current as
224 of the time of filing except that the statement of financial condition
225 shall pertain to the applicant's most recently-completed fiscal year.

226 [(f)] (g) The commissioner shall determine whether to prequalify an
227 applicant on the basis of the application and on relevant past
228 performance according to procedures and criteria set forth in
229 regulations which the commissioner shall adopt, in accordance with
230 chapter 54. Such criteria shall include, at a minimum, the record of the
231 applicant's performance, including, but not limited to, written

232 evaluations of the applicant's performance on public or private projects
233 within the past five years, the applicant's past experience on projects of
234 various size and type, the skill, ability and integrity of the applicant
235 and any subcontractors used by the applicant, the experience and
236 qualifications of supervisory personnel employed by the applicant, the
237 maximum amount of work the applicant is capable of undertaking as
238 demonstrated by the applicant's financial condition, bonding capacity,
239 size of past projects and present and anticipated work commitments,
240 and any other relevant criteria that the commissioner prescribes. Such
241 regulations shall also (1) provide that the criteria considered shall be
242 assigned separate designated numerical values and weights and that
243 the applicant shall be assigned an overall numerical rating on the basis
244 of all criteria, and (2) establish prequalification classifications and
245 aggregate work capacity ratings. Such prequalification classifications
246 shall be used to establish the types of work a contractor is qualified to
247 perform and the aggregate work capacity ratings shall be used to
248 establish the maximum amount of work a contractor is capable of
249 undertaking.

250 [(g)] (h) (1) The applicant shall indicate the prequalification
251 classifications and aggregate work capacity rating that are sought. The
252 commissioner may issue a certificate of prequalification to any
253 applicant who meets the requirements of this section. Such certificate
254 shall be effective for one year from the date issued and shall indicate
255 the contractor's prequalification classifications and aggregate work
256 capacity ratings. The commissioner may cause the initial certificate of
257 prequalification to be effective for a period not to exceed two years and
258 may require the applicant to remit payment of the application fee, as
259 set forth in subsection (b) of this section, for the first twelve months of
260 certification as well as a prorated application fee, as described in
261 subdivision (3) of this subsection, for any additional period of
262 certification beyond the first twelve months.

263 (2) A prequalified contractor may apply at any time for additional
264 prequalification classifications or aggregate work capacity ratings by
265 submitting the applicable increase in fee, a completed update

266 statement, and other information the commissioner requires.

267 (3) The commissioner may renew a prequalification certificate upon
268 receipt of a completed update statement, any other material the
269 commissioner requires and a nonrefundable fee in an amount equal to
270 one-half of the application fee for the applicable aggregate work
271 capacity rating as set forth in subsection (b) of this section, except that
272 in no event shall such fee be less than six hundred dollars.

273 [(h)] (i) Not later than sixty days after receiving a completed
274 application, the commissioner shall mail or send by electronic mail a
275 notice to the applicant concerning the commissioner's preliminary
276 determination regarding the conditions of the prequalification
277 certification, a denial of certification, a reduction in the level of
278 certification sought or nonrenewal of certification. Any applicant
279 aggrieved by the commissioner's preliminary determination may
280 request copies of the information upon which the commissioner relied
281 in making the preliminary determination, provided such request is
282 made not later than ten days after the date the notice was mailed [as
283 indicated by the postmark on the envelope] or sent by electronic mail
284 to the applicant. Not later than twenty days after [said postmark date]
285 the date the notice was mailed or sent by electronic mail, the applicant
286 may submit additional information to the commissioner with a request
287 for reconsideration. The commissioner shall issue a final determination
288 regarding the application not later than ninety days after the date the
289 commissioner mailed or sent by electronic mail the notice of the
290 preliminary determination, which ninety-day period may be extended
291 for an additional period not to exceed ninety days if (1) the
292 commissioner gives written notice to the applicant that the
293 commissioner requires additional time, and (2) such notice is mailed or
294 sent by electronic mail during the initial ninety-day period.

295 [(i)] (j) The commissioner may not issue a prequalification certificate
296 to any contractor (1) who is disqualified pursuant to section 31-57c or
297 31-57d, [or] (2) who has a principal or key personnel who, within the
298 past five years, has a conviction or has entered a plea of guilty or nolo

299 contendere for or has admitted to commission of an act or omission
300 that reasonably could have resulted in disqualification pursuant to any
301 provision of subdivisions (1) to (3), inclusive, of subsection (d) of
302 section 31-57c or subdivisions (1) to (3), inclusive, of subsection (d) of
303 section 31-57d, as determined by the commissioner, (3) who the
304 commissioner deems should not be prequalified based on the
305 application for prequalification or any relevant past performance as
306 measured by the procedures and criteria described in regulations
307 adopted by the commissioner pursuant to subsection (g) of this
308 section, (4) who is found to have violated any provision of sections 5 to
309 7, inclusive, of this act during the five-year period prior to the
310 commissioner's consideration of such prequalification application, or
311 (5) who the commissioner determines should not be prequalified based
312 on a determination by the commissioner that such prequalification
313 would not serve the best interests of the state. Nothing in this
314 subsection shall be construed to prohibit the commissioner from
315 issuing a prequalification certificate to a contractor described in
316 subdivision (5) of this subsection, if, at a later point in time, the
317 commissioner determines that such prequalification would not
318 adversely affect the best interests of the state.

319 [(j)] (k) The commissioner may revoke a contractor's prequalification
320 or reduce the contractor's prequalification classification or aggregate
321 work capacity ratings, after an opportunity for a hearing, if the
322 commissioner receives additional information that supports such
323 revocation or reduction.

324 [(k)] (l) (1) Any materially false statement in the application or any
325 update statement may, in the discretion of the awarding authority,
326 result in termination of any contract awarded the applicant by the
327 awarding authority. The awarding authority shall provide written
328 notice to the commissioner of such false statement not later than thirty
329 days after discovering such false statement. The commissioner shall
330 provide written notice of such false statement to the Commissioner of
331 Public Works and the Commissioner of Agriculture and Consumer
332 Protection not later than thirty days after discovering such false

333 statement or receiving such notice.

334 (2) The commissioner shall revoke the prequalification of any
335 person, after an opportunity for hearing, if the commissioner finds that
336 the person has included any materially false statement in such
337 application or update statement, has been convicted of a crime related
338 to the procurement or performance of any public or private
339 construction contract or within the past five years has violated any
340 provision of chapter 10 or any provision of sections 5 to 7, inclusive, of
341 this act or has otherwise engaged in fraud in obtaining or maintaining
342 prequalification. Any person whose prequalification has been revoked
343 pursuant to this subsection shall be disqualified for a period of two
344 years after which the person may reapply for prequalification, except
345 that a person whose prequalification has been revoked on the basis of
346 conviction of a crime or having violated any provision of chapter 10 or
347 any provision of sections 5 to 7, inclusive, of this act or engaging in
348 fraud shall be disqualified for a period of five years after which the
349 person may reapply for prequalification. The commissioner shall not
350 prequalify a person whose prequalification has been revoked pursuant
351 to this subdivision until the expiration of said two or five-year
352 disqualification period and the commissioner is satisfied that the
353 matters that gave rise to the revocation have been eliminated or
354 remedied.

355 [(l)] (m) The commissioner shall provide written notice of any
356 revocation, disqualification, reduction in classification or capacity
357 rating or reinstated prequalification to the Commissioner of Public
358 Works and the Commissioner of Agriculture and Consumer Protection
359 not later than thirty days after any final determination.

360 [(m)] (n) The provisions of this section and section 4 of [this act]
361 public act 03-215, as amended by this act, shall not apply to
362 subcontractors.

363 [(n)] (o) The commissioner shall establish an update statement for
364 use by bidders for purposes of renewing or upgrading a

365 prequalification certificate and for purposes of submitting a bid
366 pursuant to section 4b-91, as amended by this act.

367 ~~[(o)]~~ (p) Any applicant aggrieved by the commissioner's final
368 determination concerning a preliminary determination, a denial of
369 certification, a reduction in prequalification classification or aggregate
370 work capacity rating or a revocation or nonrenewal of certification
371 may appeal to the Superior Court in accordance with section 4-183.

372 Sec. 3. Section 4 of public act 03-215 is repealed and the following is
373 substituted in lieu thereof (*Effective October 1, 2004*):

374 (a) The Commissioner of Administrative Services shall adopt
375 regulations, in accordance with chapter 54, to establish a standard
376 contractor evaluation form. Such form shall include, at a minimum, the
377 following evaluation criteria: (1) Timeliness of performance; (2) quality
378 of performance; (3) cost containment, including, but not limited to, the
379 contractor's ability to work within the contract's allotted cost, the
380 accuracy of the contractor's billing, and the number and cause of
381 change orders and the manner in which the contractor determined the
382 price on the change orders; (4) safety; (5) the quality of the contractor's
383 working relationship with the agency and the quality of the
384 contractor's supervision of the work area; (6) communication with the
385 agency; (7) the quality of the contractor's required documentation; (8)
386 the performance of the contractor's subcontractors, to the extent
387 known by the official who completes the evaluation; and (9) the
388 contractor's and any subcontractor's compliance with part III of
389 chapter 557, or chapter 558, or the provisions of the federal Davis-
390 Bacon Act, 40 USC, Sections 276a to 276a-5, inclusive, as from time to
391 time amended, to the extent known by the official who completes the
392 evaluation.

393 (b) Each public agency shall compile evaluation information during
394 the performance of the contract and complete and submit the
395 evaluation form to the commissioner after completion of a building
396 project under the agency's control if the building project is funded, in

397 whole or in part, by state funds. Such evaluation information shall be
398 available to any state agency for purposes of assessing the
399 responsibility of the contractor during a bid selection and evaluation
400 process. The designated official from such agency shall certify that the
401 information contained in the evaluation form represents, to the best of
402 the certifying official's knowledge, a true and accurate analysis of the
403 contractor's performance record on the contract. The commissioner
404 shall include the evaluation in the contractor's prequalification file. The
405 official shall mail a copy of the completed evaluation form to the
406 contractor. Any contractor who wishes to contest any information
407 contained in the evaluation form may submit a written response to the
408 commissioner not later than thirty days after the date the form was
409 mailed as indicated by the postmark on the envelope. Such response
410 shall set forth any additional information concerning the building
411 project or the oversight of the contract by the public agency that may
412 be relevant in the evaluation of the contractor's performance on the
413 project. The commissioner shall include any such response in the
414 contractor's prequalification file.

415 (c) As used in this section, "public agency" means a public agency,
416 as defined in section 1-200, but does not include The University of
417 Connecticut with respect to any project, as defined in subdivision (16)
418 of section 10a-109c, that is undertaken and controlled by the
419 university, and "subcontractor" means a person who performs work
420 with a value in excess of twenty-five thousand dollars for a contractor
421 pursuant to a contract for work for the state or a municipality which is
422 estimated to cost more than five hundred thousand dollars.

423 (d) Upon fifty per cent completion of any building project under a
424 public agency's control, the agency shall advise the contractor in
425 writing of the agency's preliminary evaluation of the contractor's
426 performance on the project.

427 (e) No public agency, employee of a public agency or certifying
428 official of a public agency shall be held liable to any contractor for any
429 loss or injury sustained by such contractor as the result of the

430 completion of an evaluation form, as required by this section, unless
 431 such agency, employee or official is found by a court of competent
 432 jurisdiction to have acted in a wilful, wanton or reckless manner.

433 (f) Any public agency that fails to submit a completed evaluation
 434 form, as required by this section, not later than seventy days after the
 435 completion of a project, shall be ineligible for the receipt of any public
 436 funds disbursed by the state for the purposes of the construction,
 437 reconstruction, alteration, remodeling, repair or demolition of any
 438 public building or any public works project until such completed
 439 evaluation form is submitted.

440 Sec. 4. Section 6 of public act 03-215 is repealed and the following is
 441 substituted in lieu thereof (*Effective October 1, 2004*):

442 (a) Not later than January 1, [2004] 2006, and annually thereafter,
 443 each awarding authority shall prepare a report on the status of (1) any
 444 ongoing project for the construction, reconstruction, alteration,
 445 remodeling, repair or demolition of any public building which is
 446 estimated to cost more than five hundred thousand dollars and is paid
 447 for, in whole or in part, with state funds, or (2) any property
 448 management contract awarded by the Department of Public Works
 449 which has an annual value of one hundred thousand dollars or more.
 450 [The] Except for a school construction project, the awarding authority
 451 shall submit the report to the Governor and the joint standing
 452 committees of the General Assembly having cognizance of matters
 453 relating to government administration and finance, revenue and
 454 bonding. In any instance in which a municipality is the awarding
 455 authority for a school construction project, such municipality shall
 456 submit the report required by this section to the Department of
 457 Education who shall compile and analyze such reports in a summary
 458 submitted to the joint standing committees of the General Assembly
 459 having cognizance of matters relating to government administration
 460 and finance, revenue and bonding. The report shall be submitted in
 461 accordance with section 11-4a. The first report submitted after a
 462 contract is awarded shall indicate: (A) When, where and how the

463 request for bids was advertised; (B) who bid on the projects; (C) the
 464 provisions of law that governed the award of the contract and if there
 465 were any deviations from standard procedure in awarding the
 466 contract; (D) the names of the individuals who had decision-making
 467 authority in awarding the contract, including, but not limited to, the
 468 individuals who served on any award panel; (E) if an award panel was
 469 used, whether the recommendation of the panel was followed and, if
 470 applicable, the reason why such recommendation was not followed;
 471 (F) whether the awarding authority has any other contracts with the
 472 contractor who was awarded the contract, and if so, the nature and
 473 value of the contract; and (G) any provisions of law that authorized or
 474 funded the project.

475 (b) The University of Connecticut shall not be required to submit a
 476 report pursuant to this section for any project, as defined in
 477 subdivision (16) of section 10a-109c, that is undertaken and controlled
 478 by the university.

479 (c) The Commissioner of Administrative Services may, within said
 480 commissioner's discretion, grant no more than two sixty-day
 481 extensions to any awarding authority for the submission of the report
 482 described in this section.

483 Sec. 5. (NEW) (*Effective October 1, 2004*) As used in sections 5, 6 and 8
 484 of this act:

485 (1) "Large state construction or procurement contract" means any
 486 contract, having a cost of more than five hundred thousand dollars, for
 487 (A) the remodeling, alteration, repair or enlargement of any real asset,
 488 (B) the construction, alteration, reconstruction, improvement,
 489 relocation, widening or changing of the grade of a section of a state
 490 highway or a bridge, (C) the purchase or lease of supplies, materials,
 491 or equipment, as defined in section 4a-50 of the general statutes, or (D)
 492 the construction, reconstruction, alteration, remodeling, repair or
 493 demolition of any public building.

494 (2) "Gift" has the same meaning as provided in subsection (e) of

495 section 1-79 of the general statutes, except that "gift" shall also include
496 any gift of more than one hundred dollars provided by an individual
497 for the celebration of a major life event.

498 (3) "Person" has the same meaning as provided in section 1-1 of the
499 general statutes.

500 (4) "Immediate family" has the same meaning as provided in section
501 1-79 of the general statutes.

502 (5) "Business with which the official or employee is associated" has
503 the same meaning as "business with which he is associated" as defined
504 in section 1-79 of the general statutes.

505 Sec. 6. (NEW) (*Effective October 1, 2004*) (a) Notwithstanding any
506 provision of the general statutes, no person who is, or is seeking to be
507 prequalified under section 3 of public act 03-215, as amended by this
508 act, shall:

509 (1) Knowingly give or promise to give, directly or indirectly, any
510 gift or gifts, or offer employment, to any state official or employee;

511 (2) With the intent to obtain a competitive advantage over other
512 bidders, solicit any information from a state official or employee that
513 the contractor knows is not and will not be available to other bidders
514 for a large state construction or procurement contract that the
515 contractor is seeking;

516 (3) Intentionally, wilfully or with reckless disregard for the truth,
517 charge the state for work not performed or goods not provided,
518 including submitting change orders in bad faith with the sole intention
519 of increasing the contract price, falsifying invoices or bills, charging
520 unconscionable rates for services to the state or charging
521 unconscionable prices for goods to the state; or

522 (4) Intentionally or wilfully violate or attempt to circumvent state
523 competitive bidding and ethics laws.

524 (b) No person with whom the state has contracted to provide
525 consulting services to plan or develop specifications for any contract
526 subject to the provisions of section 4b-91 of the general statutes, as
527 amended, and no business with which such person is associated may
528 serve as a contractor for such contract or as a subcontractor or
529 consultant to the person who was awarded such contract.

530 (c) Any person who violates any provision of this section may be
531 deemed a nonresponsible bidder by a state agency.

532 (d) The State Ethics Commission may investigate any violations of
533 this section and may refer such violations to the Attorney General.
534 Upon a finding of a violation, the State Ethics Commission may take
535 any appropriate action pursuant to section 1-88 and 1-89 of the general
536 statutes in the same manner as for a violation of the Code of Ethics of
537 Public Officials.

538 (e) Any person who knowingly violates any provision of this section
539 shall be guilty of a class A misdemeanor.

540 Sec. 7. (NEW) (*Effective October 1, 2004*) The State Ethics Commission
541 shall develop a summary of state ethics laws concerning state
542 contractors, including, but not limited to, provisions contained in
543 chapter 10 of the general statutes and section 6 of this act, which shall
544 constitute and be known as "The Connecticut State Contractor's Code
545 of Ethics".

546 Sec. 8. (NEW) (*Effective October 1, 2004*) The Departments of
547 Administrative Services, Public Works, Transportation and
548 Information Technology, The University of Connecticut and the
549 Connecticut State University shall adopt regulations, in accordance
550 with the provisions of chapter 54 of the general statutes, establishing
551 objective criteria for the award of state construction and procurement
552 contracts. Each said agency or institution shall post such criteria on its
553 website and publicize the criteria in any other manner that ensures
554 that prospective bidders for such contracts are aware of the criteria.

555 Sec. 9. (NEW) (*Effective October 1, 2004*) (a) As used in this section:

556 (1) "State agency" means an executive office, department, division,
557 board, commission or other office in the executive, legislative or
558 judicial branch of state government; and

559 (2) "Competitive bid contract" means any contract awarded by a
560 state agency pursuant to a lowest responsible bid or competitive
561 selection process or construction services awards panels under section
562 8 of public act 03-215, as amended by this act.

563 (b) A state agency may reject any bidder as not responsible if such
564 bidder or the bidder's agent violates any provision of chapter 10 of the
565 general statutes or any provision of the general statutes or the
566 regulations of Connecticut state agencies concerning competitive
567 bidding.

568 (c) Each state agency that awards competitive bid contracts shall
569 adopt policies concerning the disclosure of information concerning a
570 competitive bid contract to bidders or potential bidders. Such policies
571 shall require (1) each prebid submission inquiry concerning the
572 specifications of the contract to be in writing, (2) the state agency to
573 answer each such inquiry in writing and provide a copy of the answer
574 to any other person who has expressed interest in bidding on such
575 contract, except for information provided at prebid meetings to which
576 all interested parties are invited, (3) the state agency to record any
577 information disseminated at prebid meetings and make such
578 information available to any interested party, and (4) the state agency
579 to maintain a record of each communication concerning the contract
580 between employees of the state agency and any person interested in
581 the contract, between the date the bid is advertised and the date the
582 contract is awarded, which record shall include the date of such
583 communication, the name of the person requesting information, the
584 state employee providing such information and a general description
585 of the disseminated information.

586 Sec. 10. Section 4b-100 of the general statutes, as amended by section

587 7 of public act 03-215, is repealed and the following is substituted in
588 lieu thereof (*Effective October 1, 2004*):

589 (a) The Commissioner of Public Works shall adopt regulations, in
590 accordance with chapter 54, to implement the provisions of sections
591 4b-91 to 4b-100, inclusive, as amended. Such regulations shall include
592 (1) objective criteria for evaluating the qualifications of bidders, [and]
593 (2) objective criteria for evaluating proposals, and (3) the procedures
594 for evaluating bids after the prequalification status of the bidder has
595 been verified.

596 (b) The Commissioner of Public Works shall adopt regulations, in
597 accordance with the provisions of chapter 54, establishing a procedure
598 for promptly hearing and ruling on claims alleging a violation or
599 violations of sections 4b-91 to 4b-100, inclusive, as amended. Such
600 claims may be initiated by the Department of Public Works or any
601 party whose financial interests may be affected by the decision on such
602 a claim.

603 Sec. 11. Section 8 of public act 03-215 is repealed and the following
604 is substituted in lieu thereof (*Effective October 1, 2004*):

605 (a) The Department of Public Works shall establish construction
606 services award panels which shall each consist of six members: Three
607 of whom shall be appointed by the Commissioner of Public Works and
608 shall be current employees of the Department of Public Works; two of
609 whom shall be appointed by the department head of the user agency;
610 and one of whom who shall be a neutral party appointed by the
611 commissioner. The members of each award panel appointed by the
612 Commissioner of Public Works shall serve for terms of one year from
613 July first. If any vacancy occurs on the panel, the Commissioner of
614 Public Works or the head or acting head of the user agency, as
615 appropriate, shall appoint a person for the unexpired term in
616 accordance with the provisions of this subsection.

617 (b) A panel established pursuant to this section shall not be deemed
618 to be a board or commission within the meaning of section 4-9a, as

619 amended. Such panels shall be the award panels for any contract for
620 the construction, reconstruction, alteration, remodeling, repair or
621 demolition of any public building for the state pursuant to sections 4b-
622 91 to 4b-100, inclusive, as amended, and section 4b-24, as amended.

623 (c) For each applicable contract, the commissioner shall designate
624 one panel to screen all submitted proposals and establish a list of
625 bidders to be interviewed and shall designate a separate panel
626 consisting of different members to interview bidders on the list and
627 submit a list of recommended contractors to the commissioner.

628 (d) The commissioner shall designate one voting member on each
629 panel to serve as chairperson. The chairperson shall moderate the
630 committee, collect votes and compile the results.

631 (e) Each award panel shall prepare a memorandum on the selection
632 process indicating (1) how the evaluation criteria were applied by each
633 panel member to determine the most qualified firms, (2) the ranking of
634 each bidder by each panel member which shall be available to the
635 public after execution of the contract with the selected contractor, and
636 (3) a certification by each panel member that the selection of the most
637 qualified firm was not the result of collusion, the giving of a gift or the
638 promise of a gift, compensation, fraud or inappropriate influence form
639 any person who was not part of the selection process.

640 (f) The commissioner shall select a contractor from among the list of
641 firms submitted by the award panel that interviewed the contractors.
642 After the commissioner has made a selection, the names of the
643 contractor firms submitted to the commissioner shall be available to
644 the public upon request. The commissioner shall also prepare a
645 memorandum on the final phase of the selection process, indicating
646 how the commissioner applied the evaluation criteria to determine the
647 most qualified firm. Such memorandum shall include a certification by
648 the commissioner that the commissioner's selection of the most
649 qualified bidder was not the result of collusion, the giving of a gift or
650 the promise of a gift, compensation, fraud or undue pressure from any

651 person who was not part of the selection process and shall be available
652 to the public after execution of the contract with the selected
653 contractor.

654 (g) The State Ethics Commission may investigate any violation of
655 this section, including but not limited to, any false statement provided
656 on a certification described in subsection (e) or (f) of this section, and
657 may refer such violation to the Attorney General. Upon a finding of a
658 violation of this section, the State Ethics Commission may take action
659 pursuant to sections 1-88 and 1-89 as is consistent with the finding of a
660 violation of the Code of Ethics for Public Officials.

661 (h) Any person who knowingly provides a false statement on a
662 certification described in subsection (e) or (f) of this section shall be
663 guilty of a class A misdemeanor.

664 ~~[(f)]~~ (i) The commissioner shall adopt regulations, in accordance
665 with chapter 54, to implement the provisions of this section.

666 Sec. 12. Subdivision (4) of section 4b-24 of the general statutes, as
667 amended by section 9 of public act 03-215, is repealed and the
668 following is substituted in lieu thereof (*Effective October 1, 2004*):

669 (4) The commissioner may designate projects to be accomplished on
670 a total cost basis for (A) new facilities to provide for the substantial
671 space needs of a requesting agency, (B) the installation of mechanical
672 or electrical equipment systems in existing state facilities, or (C) the
673 demolition of any state facility that the commissioner is authorized to
674 demolish under the general statutes. If the commissioner designates a
675 project as a designated total cost basis project, the commissioner may
676 enter into a single contract with a private developer which may
677 include such project elements as site acquisition, architectural design
678 and construction. The commissioner shall select a private developer
679 from among the developers who are selected and recommended by the
680 award panels established in [this subdivision] section 8 of public act
681 03-215, as amended of this act. All contracts for such designated
682 projects shall be based on competitive proposals received by the

683 commissioner, who shall give notice of such project, and specifications
 684 for the project, by advertising, at least once, in a newspaper having a
 685 substantial circulation in the area in which such project is to be located.
 686 No contract which includes the construction, reconstruction, alteration,
 687 remodeling, repair or demolition of any public building for work by
 688 the state for which the total cost is estimated to be more than five
 689 hundred thousand dollars may be awarded to a person who is not
 690 prequalified for the work in accordance with section 3 of [this act]
 691 public act 03-215, as amended by this act. The commissioner shall
 692 determine all other requirements and conditions for such proposals
 693 and awards and shall have sole responsibility for all other aspects of
 694 such contracts. Such contracts shall state clearly the responsibilities of
 695 the developer to deliver a completed and acceptable product on a date
 696 certain, the maximum cost of the project and, as a separate item, the
 697 cost of site acquisition, if applicable. No such contract may be entered
 698 into by the commissioner without the prior approval of the State
 699 Properties Review Board and unless funding has been authorized
 700 pursuant to the general statutes or a public or special act.

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| This act shall take effect as follows: | |
| Section 1 | <i>October 1, 2004</i> |
| Sec. 2 | <i>October 1, 2004</i> |
| Sec. 3 | <i>October 1, 2004</i> |
| Sec. 4 | <i>October 1, 2004</i> |
| Sec. 5 | <i>October 1, 2004</i> |
| Sec. 6 | <i>October 1, 2004</i> |
| Sec. 7 | <i>October 1, 2004</i> |
| Sec. 8 | <i>October 1, 2004</i> |
| Sec. 9 | <i>October 1, 2004</i> |
| Sec. 10 | <i>October 1, 2004</i> |
| Sec. 11 | <i>October 1, 2004</i> |
| Sec. 12 | <i>October 1, 2004</i> |

GAE *Joint Favorable Subst.*

JUD *Joint Favorable*

LM *Joint Favorable*